

REMARKS

This Reply and Amendment is intended to be completely responsive to the Non-final Office Action dated October 16, 2006. Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claims 1-11, 14-18, 26, 27 and 29-38 were pending. Claims 1-11, 14-18, 26, 27 and 29-38 have been rejected. Claims 1, 14, 15, 26, 27 and 34 have been amended. No new matter has been added. Accordingly, Claims 1-11, 14-18, 26, 27 and 29-38 will remain pending in the present Application upon entry of this Reply and Amendment.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim Rejections – 35 U.S.C. § 112 ¶ 2

On page 2 of the Office Action, the Examiner rejected Claims 14, 15 and 26 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to Claims 14, 15 and 26, the Examiner stated “each arm has two distal ends” and noted that “there can be only one distal end and one proximal end.” With respect only to Claims 14 and 26, the Examiner cited the claim language that recites “the reinforcing steel creates a wear zone in an area not reinforced” and asserted that “[t]his is not true since this non-reinforced ‘wear zone’ is already there with or without the reinforcing steel.”

For the sake of clarity, Applicants have amended Claims 14 and 26 to recite a “first end” and a “second end” rather than first and second distal ends as previously recited. As for the use of the phrase “wear zones” in Claims 14 and 26, Applicants respectfully disagree with the Examiner assertion that a “wear zone is already there with or without the reinforcing steel.” Throughout the present Application, Applicants have clearly used the phrase “wear zone” to refer to an indicator feature that would allow improper wrecker usage to be identified upon inspection and not simply an area on the support arm that is subject to wear. See Specification, paragraph

[0069]. Without providing a “wear zone,” the support arm is likely to wear along an entire length of the arm thereby making it difficult to recognize improper wrecker usage. See Specification, paragraph [0068]. Applicants assert that one of ordinary skill in the art, after reviewing the present Application, would understand the phrase “wear zone” (as used in the claims) to mean a feature useful in detecting misuse.

Accordingly, Applicants respectfully request withdrawal of the rejections of Claims 14, 15 and 26 under 35 U.S.C. § 112 ¶ 2.

Claim Rejections – 35 U.S.C. § 102(b)

On page 3 of the Office Action, the Examiner rejected Claims 1, 2, 27, 29, 30 and 32-36 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,722,810 issued to Young et al. (“Young et al.”). Also on page 3 of the Office Action, the Examiner rejected Claims 1, 8, 9, 27, 29, 34 and 35 under U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,139,250 issued to Nolasco (“Nolasco”). Applicants respectfully disagree with the Examiner’s assertion that Young et al. and Nolasco teach all the elements of the claims to which they have been applied. However, in an effort to advance the prosecution of the present Application, Applicants have made certain clarifying amendments to more clearly define what is meant by the phrases “inbound portion” and “outbound portions” as those phrases are used with reference to a crossbar assembly.

Claim 1 is in independent form and recites a “wheel-lift assembly” comprising, in combination with other elements, “a pair of actuating devices connected to [an] outbound portion of [a] crossbar assembly, respectively, each of said actuating devices being operatively connected to one of said support arms” (emphasis added).

Claim 27 is independent form and recites a “wrecker” having a “wheel lift assembly” comprising, in combination with other elements, “a pair of actuating devices connected to [an] outbound portion of [a] crossbar assembly, respectively, each of said actuating devices being operatively connected to one of said support arms” (emphasis added).

Claim 34 is independent form and recites a “wrecker” comprising, in combination with other elements, “a first actuating device supported at [a] first outbound portion and operatively connected to [a] first support arm; and a second actuating device supported at [a] second outbound portion and operatively connected to [a] second support arm” (emphasis added).

Each of independent Claims 1, 27 and 34 has been amended to more clearly define what constitutes an “outbound portion” of the crossbar assembly in comparison to what constitutes an “inbound portion” of the crossbar assembly. In summary, the supports arms are pivotally associated with the crossbar assembly at predefined points and spaced apart from each other in a lateral direction. The portion of the crossbar assembly that is between the predefined points is the inbound portion of the crossbar assembly, while the portions of the crossbar assembly on the opposite sides of the predefined points are the outbound portions of the crossbar assembly. See, e.g., Specification, paragraph [0057] and Figures 20-23 ([t]he point of pivotal connection to crossbar assembly 300 of lifting arms 302, 304 define an inbound portion 306 and an outbound portion 308 of the crossbar assembly 300).

A “wheel-lift assembly,” or a “wrecker” comprising a wheel lift assembly, in which a “pair of actuating devices [are] connected to [an] outbound portion of [a] crossbar assembly, respectively, each of said actuating devices being operatively connected to one of said support arms,” as required by independent Claim 1 and independent Claim 27 respectively, is not disclosed, taught or suggested by Young et al. and Nolasco. Likewise, a “wrecker” in which “a first actuating device [is] supported at [a] first outbound portion and operatively connected to [a] first support arm; and a second actuating device [is] supported at [a] second outbound portion and operatively connected to [a] second support arm,” as required by independent Claim 34, is also not disclosed, taught or suggested by Young et al. and Nolasco.

In contrast, Nolasco discloses a wheel lift mechanism 10 having a pair of claw members 20, 21 that are attached to laterally movable slider arms 16, 17 by pins 24, 25 (col. 5, lines 39-42, Figure 3). A pair of hydraulic cylinders 27, 28 are provided to rotate the claw members 20, 21 about the pins 24,25 (col. 5, lines 48-49). The hydraulic cylinders 27, 28 are attached to a cross

bar 12d of yoke 12 (col. 5, lines 50-56). The cross bar 12d is shown in Figure 3 as being a structure that is between pins 24, 25, and as such, would constitute an inbound portion of wheel lift mechanism 10. With respect to Young et al., Young et al. discloses a wheel grid assembly 25 having lift arms 31A and 31B that each include engaging arm segments 33A and 33B pivotally connected at the rear ends of extension arm segments 32A and 32B (col. 5, lines 14-23 and Figure 6). The engaging arm segments 33A and 33B are pivotally associated with the extension arm segments 32A and 32B rather than with the wheel boom 26 (col. 5, lines 17-18).

Accordingly, neither Young et al. nor Nolasco disclose, teach or suggest the combination of subject matter recited in independent Claims 1, 27 and 34. Young et al. and Nolasco would require further modification, and the only evidence in the record supporting such further modification is contained in Applicants' own application. Any reliance on Applicants' own application (using hindsight) would be improper.

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of independent Claim 1, dependent Claims 2, 8 and 9 as they depend from independent Claim 1, independent Claim 27, dependent Claims 29, 30, 32 and 33 as they depend from independent Claim 27, independent Claim 34 and dependent Claims 35 and 36 as they depend from independent Claim 34.

Claim Rejections – 35 U.S.C. § 103(a)

On page 4 of the Office Action, the Examiner rejected Claims 14-18 under 35 U.S.C. § 103(a) as unpatentable over Nolasco. On page 5 of the Office Action, the Examiner rejected Claims 2, 5-7, 10, 11, 26, 31 and 36-38 under 35 U.S.C. § 103(a) as unpatentable over Nolasco in view of Young et al. On page 8 of the Office Action, the Examiner rejected Claims 3 and 4 under 35 U.S.C. § 103(a) as unpatentable over Nolasco in view of U.S. Patent No. 4,958,980 to Holmes et al. (“Holmes et al.”).

1. Claims 2, 5-7, 10, 11, 14-18 and 36-38

Dependent Claims 2, 5-7, 10, 11 and 14-18 depend from independent Claim 1. Dependent Claims 36-38 depend from independent Claim 34. As previously described, Applicants believe that independent Claims 1 and 34 recite a combination of subject matter that is allowable in over Nolasco and Young et al. (alone or in any proper combination).

Accordingly, Applicants submit that the rejections under 35 U.S.C. § 103(a) have been overcome and dependent Claims 2, 5-7, 10, 11 and 14-18 as they depend from independent Claim 1 and dependent Claims 36-38 as they depend from independent Claim 34 are allowable. See 35 U.S.C. § 112 ¶ 4. Applicants respectfully request reconsideration and allowance of dependent Claims 2, 5-7, 10, 11, 14-18 and 36-38.

2. Claims 26 and 31

Claim 26 is in independent form and recites a “wheel-lift assembly” comprising, in combination with other elements, “a pair of actuating devices, each of said actuating devices being fixed relative to the outbound portion of the crossbar and fully enclosed in the grid boxes” (emphasis added). Claim 31 depends from independent Claim 26.

Similar to independent Claims 1, 27 and 34, independent Claim 26 has been amended for clarity to more clearly define what constitutes an “outbound portion” of the crossbar assembly in comparison to what constitutes an “inbound portion” of the crossbar assembly. In independent Claim 26, the grid boxes (which fully enclose the actuating devices) are mounted at outbound portions of the crossbar assembly. As previously described, neither Nolasco nor Young et al. (alone or in any proper combination) disclose, teach or suggest actuating devices at outbound portions of a crossbar assembly.

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of independent Claim 26 and dependent Claim 31 as it depends from independent Claim 26.

3. Claims 3 and 4

Dependent Claims 3 and 4 depend from independent Claim 1. As previously described, Applicants believe that independent Claim 1 recites a combination of subject matter that is allowable in over Nolasco and Young et al. (alone or in any proper combination). Applicants assert that Holmes et al. does not correct the previously described deficiencies of Nolasco and Young et al. with respect to independent Claim 1. For example, Holmes et al. does not disclose, teach or suggest a pair of actuating devices connected to outbound portions of a crossbar assembly.

Accordingly, Applicants submit that the rejections under 35 U.S.C. § 103(a) have been overcome and dependent Claims 3 and 4 as they depend from independent Claim 1 are allowable. See 35 U.S.C. § 112 ¶ 4. Applicants respectfully request reconsideration and allowance of dependent Claims 3 and 4.

* * *

Claims 1, 14, 15, 26, 27 and 34 have been amended. Applicants respectfully submit that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by the credit card payment providing incorrect information resulting in a rejected credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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